

LEGISLATIVE AUDIT COMMISSION



Review of
Department of Professional Regulation
Two Years Ended June 30, 2003

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REVIEW: 4218
DEPARTMENT OF PROFESSIONAL REGULATION
TWO YEARS ENDED JUNE 30, 2003

FINDINGS/RECOMMENDATIONS - 19

IMPLEMENTED - 5

ACCEPTED - 14

REPEATED RECOMMENDATIONS - 5

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 12

This review summarizes the audit of the Department of Professional Regulation, for the two years ended June 30, 2003, filed with the Legislative Audit Commission July 15, 2004. The auditors performed a compliance audit in accordance with *Government Auditing Standards* and State statute.

The Department of Professional Regulation is responsible for maintaining proper standards of competence by license holders and to protect the public from those who abuse their licenses. This responsibility encompasses licensing individuals either through issuance of an initial license or by license renewal, administering examinations as a requisite to licensure in certain professions, establishing rules for the proper conduct of licensees, performing investigations into complaints filed against licensees, and taking disciplinary action against licensees determined to have violated the laws or rules governing their profession.

The Department regulates 54 different professions, trades and occupations, issuing 179 separate licensure categories and administers 51 licensure acts.

Four individuals served as the Director of the Department of Professional Regulation during the two-year audit period which began on July 1, 2002:

- Mr. Len Sherman (until July 31, 2002)
- Ms. Aurelia Pucinski (until December 4, 2002)
- Mr. Robert Hewson (until June 23, 2003)
- Mr. Patrick Hughes (until July 28, 2003).

On July 29, 2003, Mr. Fernando E. Grillo became the Director of the Department of Professional Regulation. As a result of Executive Order #6 (2004), the Department of Professional Regulation was merged into a new Department of Financial and Professional Regulation. Mr. Grillo is the Secretary of that Department.

REVIEW: 4218

The average number of employees by division is as follows:

| Division | FY03 | FY02 | FY01 |
|-----------------------------|------------|------------|------------|
| Director's Staff | 15 | 14 | 15 |
| Internal Audit | 3 | 4 | 5 |
| Legal & Legislative Affairs | 11 | 10 | 8 |
| Tactical Diversion | - | - | 1 |
| Licensing & Testing | 62 | 64 | 64 |
| State-Wide Enforcement | 110 | 117 | 115 |
| Human Resources | 4 | 4 | 5 |
| Public Information | 2 | - | - |
| Fiscal Operations | 17 | 16 | 16 |
| Formal Hearings | 5 | 3 | 2 |
| Deputy Director's Office | 20 | 27 | 35 |
| Medical Coordinator | - | - | 3 |
| Administrative Services | 26 | 34 | 35 |
| TOTAL | 275 | 293 | 304 |

Appendix A indicates during FY03 the Department granted 52,351 new licenses, renewed 201,573 licenses, accepted 11,085 complaints, referred 2,924 complaints to investigation, referred 7,592 investigative cases to prosecution, and placed 603 licensees on probation.

Expenditures From Appropriations

The General Assembly appropriated a total of \$27,811,300 from 11 different funds during FY03. Appendix B summarizes these appropriations and expenditures for the period under review. Costs associated with some of the professions regulated by the Department are paid from those respective professions' individual funds. The costs associated with the other professions regulated by the Department are paid from the General Professions Dedicated Fund. Overall general costs of the Department, (i.e., costs associated with Department management) were paid from the General Revenue Fund. However in FY03, those expenditures were accounted for in the Department's Professions Indirect Cost Fund and the General Professions Dedicated Fund. Total expenditures from all funds increased from \$23,211,150 in FY01, to \$23,693,591 in FY02, to \$23,984,253 in FY03, an average annual increase of less than \$400,000 and less than 2%. Lapse period expenditures were approximately \$1.2 million, or 5.1% in FY03, and \$760,000, or 3.2% in FY02.

Appendix D indicates expenditures for FY03, FY02, and FY01 by major object code.

Cash Receipts

REVIEW: 4218

The Department collects fees in connection with the licensing of various professions and occupations. Over the past several years the Department has implemented dedicated funds to separately account for the costs of administering several professions in addition to other professions funded through the General Revenue Fund. Cash receipts totaled \$22,663,531 in FY03, and \$34,617,856 in FY02. Generally, variances in receipts were due to fee changes, renewal periods, changes in the number of licensees, and changes in profession titles and qualifications. The table in Appendix D summarizes the revenues recorded in the various funds.

Locally Held Funds

Appendix E summarizes the locally held and administered funds of the Department for the two years under review. Department policies and procedures authorize the deposit of monies in local financial institutions for investigative operations and payments including the purchase of evidence, procurement of surveillance/investigative equipment, and the employment of persons to obtain evidence. The General Official Advance Fund may be used by professions other than medical for receipts and expenditures related to the acquisition of evidence for investigations. The cash balances in the funds have remained constant since 2001.

Property and Equipment

Appendix F provides a summary of changes in property and equipment. Property and equipment increased from \$3,958,833 as of July 1, 2001, to \$5,614,847 as of June 30, 2003. Approximately \$342,015 consists of automobiles.

Accounts Receivable

As of June 30, 2001, the Department's accounts receivable totaled \$456,000, with a substantial portion consisting of fines receivable (uncollected disciplinary fines assessed by the Department). Of the \$456,000 in gross receivable, \$166,000 is current and \$290,000 is past due, and \$86,000 is estimated uncollectible.

Accountants' Findings and Recommendations

Condensed below are the 19 findings and recommendations included in the audit report. There were five repeated recommendations. The following recommendations are classified on the basis of information provided by Brian Chumley, Audit Liaison, Department of Financial and Professional Regulation, via electronic mail dated January 7, 2005.

Implemented or Accepted

- 1. Establish and maintain effective controls over the completion of the GAAP Package forms and the financial reporting process to ensure timely and accurate submission of financial data.**

Findings: The FY03 GAAP Package forms were not prepared and submitted timely. Final financial data for capital assets and the Department representation letter was not provided to the Comptroller until October 24, 2003, which is 70 days past due. Also for FY03 the Department did not complete adjustments on the GAAP Package for seven funds. Consequently, other GAAP Package forms were also inaccurate for Statewide reporting.

Updated Response: Accepted. The Department hired a public accounting firm on contract to complete the FY 2004 GAAP package. The GAAP package was submitted in a timely manner.

- 2. Staff the Design Professionals Dedicated Employee positions as mandated. (Repeated-1993)**

Findings: The Department did not staff the Design Professionals Dedicated Employee positions in accordance with statute. In FY03, DPR was short one full-time licensing clerk and one full-time Assistant Coordinator. Employees in the Licensing and Testing Unit perform functions for other professions.

Updated Response: Implemented. Public Act 93-1009 changed the language of the Act to state that design professionals employees are no longer dedicated but “designated” to primarily work on Design-related work. This allows the Department greater flexibility in maintaining an efficient staff.

- 3. Perform a detailed review of all major internal accounting and administrative controls according to the Fiscal Control and Internal Auditing Act. (Repeated-1995)**

Findings: The Department's Internal Audit Unit did not perform systematic detailed reviews of all major systems of internal accounting administrative controls as required by statute. The Internal Audit Unit focused on areas deemed high-risk and omitted testing Personnel and Payroll.

The Department attributes the cause of the problem to understaffing in the Internal Audit Unit.

Updated Response: Implemented. The Department's Internal Audit Division has been transferred to the Department of Central Management Services.

4. Implement controls to ensure employee performance evaluations are completed timely. (Repeated-1993)

Findings: The Department did not conduct employee performance evaluations on a timely basis. Twenty-nine of 50 employees tested did not have a performance evaluation performed on a timely basis. According to Department personnel, management has made the evaluation process a priority. However, the supervisors assigned responsibility for completion of the evaluations have failed to follow Department policy.

Response: Concur. Human Resources will develop and implement training of supervisory staff on the performance evaluation system and establish a procedure to efficiently monitor evaluations to ensure their completion in a timely manner.

5. Establish and enforce a policy and obtain certification forms for license and automotive liability insurance for State assigned vehicles, as required by statute, or rescind an employee's authority to use a State assigned vehicle who refuses to provide the required certification. (Repeated-2001)

Findings: Auditors tested 70 State vehicle assignments for FY03 and noted a certification was signed for 69 assignments. However, the certification was not in accordance with the statute. The certification was filed for travel reimbursement on personal vehicle use for State business, rather than for vehicle assignment. The Department has not revised its vehicle policy, dated April 1993, to adhere to the requirements of the statute.

Response: Concur. The Department will work with Central Management Services to seek guidance on how to correct this finding.

6. Devote adequate resources to ensure the registered nurses certification is filed with the Department of Public Health timely, as required by statute, or seek a legislative remedy regarding the statutory requirement. (Repeated-2001)

Findings: DPR did not file the required annual certification concerning the number of registered nurses in each region currently engaged in the practice of professional nursing.

Implemented or Accepted - continued

Updated Response: Accepted. The Illinois Nurses Association plans to carry a bill to repeal this section of the Act as it is no longer in use.

7. **Devote adequate resources and follow established policies and procedures to ensure invoice vouchers are processed, approved and paid in a timely manner to limit interest penalties. In addition, perform the calculations necessary to determine if any vendors are owed interest as a result of changes in the law, and pay required charges.**

Findings: The Department did not maintain adequate controls over the processing, approval and payment of vouchers as required by law. The auditors noted the following:

- In 34 of 352 invoice vouchers reviewed, the vendor invoice was not approved within 30 days of receipt;
- In three of 50 commodities invoice vouchers reviewed, the vendor invoice was approved for payment prior to receipt of the receiving report for the goods or services; and
- The Department did not implement internal procedures that would permit full compliance with the provisions of the State Prompt Payment Act regarding maintenance of a complete written or electronic record and review of invoice vouchers to determine and calculate interest.

Updated Response: Accepted. The Department is reorganizing Fiscal Operations due to the consolidation of the Departments of Professional Regulation, Financial Institutions, and Insurance and the Office of Banks and Real Estate. IDFPR expects this reorganization to lead to greater efficiencies. The Department determined there were no vendors that were due interest as a result of the Prompt Payment Act.

8. **Devote adequate resources and develop a formal process for the review and monitoring of telecommunications services and expenditures. Further, appoint a Telecommunications Coordinator to ensure monitoring of charges and services and adherence to CMS guidelines and Department policy.**

Findings: The Department did not maintain adequate controls over telecommunication services and expenditures.

- Seven of nine telephone credit card cancellation forms were not submitted timely upon employee separation.
- In 35 of 50 telecommunication invoice vouchers reviewed, the Department did not timely review the vendor invoice and monitor charges.
- In five of 50 invoice vouchers tested, the vendor charged for pager service for employees who had separated from the Department.
- The Department had no formal policy or procedure for the review and approval of telecommunications services and expenditures.

Updated Response: Accepted. The Department is reorganizing Administrative Services due to the consolidation of the Departments of Professional Regulation, Financial Institutions, and Insurance and the Office of Banks and Real Estate. IDFPR expects this reorganization to lead to greater efficiencies. These duties have been assigned to someone within the Administrative Services Department.

9. **Revise, review and approve a Vehicle Policy to ensure adequate controls over the operations of automotive equipment and expenditures. Reiterate to all employees the importance of adherence to established policies and procedures to strengthen controls over the operations of automotive equipment and expenditures.**

Findings: The Department did not maintain adequate controls over the operation of automotive equipment and expenditures. The auditors noted multiple problems when they reviewed accident reports and automotive invoice vouchers.

Updated Response: Accepted. The newly formed Department will be reviewing all policies and making necessary changes as a result of the consolidation.

10. **Ensure monthly reconciliations are performed in accordance with SAMS procedures to ensure accurate financial reporting.**

Findings: The Department did not perform a timely reconciliation of Department records to the State Comptroller records, as required by SAMS.

Updated Response: Implemented. Monthly reconciliations are being performed in accordance with SAMS procedures.

11. **Ensure the Agency Fee Imposition Report is accurate, and cause a supervisory review to be performed prior to the submission of the report to the Comptroller's Office to ensure accuracy and maintenance of documentation for all reported fees.**

Findings: The Department did not properly report fees collected on the 2002 and 2003 Agency Fee Imposition Report. The Report for FY02 reported total Department receipts in excess of \$33 million, which was almost \$1.2 million less than the "All Methods Fiscal Report". The Report for 2003 was \$116,388 less than the "All Methods Fiscal Report". The Department was unable to reconcile the discrepancies.

Implemented or Accepted - continued

Updated Response: Accepted. The Department prepares the Fee Imposition Report to the best of its ability. The Department's new licensing and financial system should be able to better categorize fees.

12. **Provide compensation at a rate not to exceed \$50 per day for services rendered by each member, as required by the Code, or seek a legislative remedy regarding the statutory requirement.**

REVIEW: 4218

Findings: The Department provided compensation to the members of 18 various boards in excess of the statutorily mandated maximum of \$50 per day. Compensation varied from \$75 per day to \$200 per day.

Response: Concur. The Department has apparently been in violation of this statute since 1988. All per diem levels were established prior to this audit period and the Department continued historical per diem payment in compliance with past practice.

Beginning in FY04, per diems for all Department of Professional Regulation board members have been eliminated. As a result, this finding has been addressed and should not be repeated.

Updated Response: Implemented. All per diems for the Department of Professional Regulation board members have been eliminated.

- 13. Comply with the provision of the Funeral Directors and Embalmers Licensing Code. Revise rules to be consistent with the Code and require applicants for a funeral director's or embalmer's license to provide documentation that their fixed place of practice or establishment devoted to the care and preparation for burial or transportation of deceased human bodies maintain a preparation room.**

Findings: The auditors noted that contrary to statute, the Department's Rules for the Administration of the Funeral Directors and Embalmers Licensing Code does not require each fixed place of practice or establishment devoted to the care and preparation for burial or transportation of deceased human bodies to maintain a preparation room. The Department also did not conduct regular inspections of funeral establishments to determine compliance with the Code for existence and proper maintenance of a preparation room unless it receives complaints. The Department also does not obtain from each applicant for a funeral director embalmer's license a statement of the place of practice.

Response: The Department does not have jurisdiction over funeral home facilities. However, the Department will enforce the facility requirements upon its licensees pursuant to statute and rule.

Updated Response: Accepted. The Department has drafted rule changes necessary to correct this finding as well as making the necessary changes to applications that will require an applicant to certify the presence and address of a prep room.

- 14. Ensure the Board sends the required summary reports of final actions taken upon disciplinary files maintained to the intended recipients provided by the Act or seek legislative remedy regarding the statutory requirement.**

Findings: The auditors noted the Department did not ensure the Board sent the required summary reports of final actions taken upon disciplinary files maintained to every licensed health care facility, every professional association and society of persons licensed under the Medical Practice Act, medical associations, insurers and the Federation of State Medical Licensing Boards.

Department personnel noted they believe the statute is outdated and it is no longer necessary to send separate summary reports to the intended recipients mentioned since the Department publishes, at least monthly, since 1996, final disciplinary actions taken against a licensee or applicant.

Updated Response: Accepted. Legislation has been sent to the Governor's Office to correct the language in the Civil Administrative Code.

15. Automatically terminate the license or deny the application of a person who fails to submit the necessary remittance after the expiration of 30 calendar days from the date of notification.

Findings: In eight of 22 cases tested, the Department did not automatically terminate the license or deny the application of persons who failed to submit the necessary nonsufficient check remittance after the expiration of 30 calendar days from the date of notification.

Updated Response: Accepted. The current licensing and enforcement system is unable to automatically terminate licenses or deny applications. The new licensing and enforcement system should be able to be programmed to handle this automatic termination.

16. Develop rules consistent with the Podiatric Medical Practice Act of 1987.

Accepted or Implemented - concluded

Findings: The Department developed and printed rules for the administration of the Podiatric Medical Practice Act that only require the chief administrator or executive officer of any health care institution license to report to the Podiatric Medical Licensing Board concerning impaired podiatric physicians. The Rules were silent on the reporting requirements to the Board for incompetence or unprofessional conduct, felonies and settlement of claims regarding a podiatric physician.

Updated Response: Accepted. The Department has drafted rule changes necessary to correct this finding.

- 17. Hire an Assistant Drug Compliance Coordinator as required by State statute or seek a legislative remedy to the statutory requirement.**

Findings: The Department did not employ an Assistant Drug Compliance Coordinator as required by law.

Response: Concur. The Department will either fill the position or revisit the structure of the statutory mandate.

- 18. Amend the Emergency Rules to set the correct fees as mandated by law, or seek a legislative remedy to the statutory requirement. Seek guidance to determine if amounts collected in excess of statutorily allowed fees should be refunded.**

Findings: The auditors noted the emergency rules setting the fees for renewing a roofing industry license were higher than the statute permitted. Also the fee for obtaining a duplicate license was higher than the statute permitted. A fee was not established for an application filed during the second half of the biennial period.

Updated Response: Accepted. The Department is proposing legislation in the Spring to correct this Act.

- 19. Ensure any person licensed under the Private Detective, Private Alarm, Private Security and Locksmith Act of 1993 who is employed in any capacity by the Department surrender his or her license to the Department for the duration of employment as required by the Act.**

Findings: The Department failed to require surrender of a private detective license, as required by law, for three investigative staff hired for the enforcement of the Private Detective, Private Alarm, Private Security and Locksmith Act of 1993.

Response: Concur. Human Resources will develop and implement a system for ensuring that all employees who hold a license and are required to surrender their license to the Department will do so in a timely manner.

Updated Response: Implemented. The licensee in question has surrendered his license to the Department.

Emergency Purchases

The Illinois Purchasing Act (30 ILCS 505/1) states that “the principle of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts ...” The law also recognizes that there will be emergency situations when it will be

REVIEW: 4218

impossible to conduct bidding. It provides a general exemption for emergencies “involving public health, public safety, or where immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage ... prevent or minimize serious disruption in State services or to insure the integrity of State records. The chief procurement officer may promulgate rules extending the circumstances by which a purchasing agency may make ‘quick purchases’, including but not limited to items available at a discount for a limited period of time.”

State agencies are required to file an affidavit with the Auditor General for emergency procurements that are an exception to the competitive bidding requirements per the Illinois Purchasing Act. The affidavit is to set forth the circumstance requiring the emergency purchase. The Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Department filed no affidavits for emergency purchases in FY02 or FY03.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department of Professional Regulation indicated as of July 2003, the Department had 294 employees assigned to locations other than official headquarters.